

1 ALAN KORN, ESQ. (SBN 167933)
2 LAW OFFICE OF ALAN KORN
3 1840 Woolsey Street
Berkeley, California 94703
4 Telephone: (510) 548-7300
Facsimile: (510) 540-4821

5 *Attorney for Plaintiffs Penelope Houston, James
Wilsey, Daniel O'Brien and Greg Ingraham*
6

7 RICHARD J. IDELL, ESQ. (SBN 069033)
8 ORY SANDEL, ESQ. (SBN 233204)
IDELL & SEITEL LLP
9 465 California Street, Suite 300
San Francisco, CA 94104
10 Telephone: (415) 986-2400
Facsimile: (415) 392-9259
11

12 ANTHONY R. BERMAN, ESQ. (SBN 160634)
BERMAN ENTERTAINMENT AND
13 TECHNOLOGY LAW
14 235 Montgomery St., Ste 760
San Francisco, CA 94104
15 Telephone: (415) 816-9623
Facsimile: (415) 421-2355
16

17 *Attorneys for Defendant David Ferguson*

18 UNITED STATES DISTRICT COURT

19 NORTHERN DISTRICT OF CALIFORNIA

20 PENELOPE HOUSTON, an individual, GREG
21 INGRAHAM, an individual, JAMES WILSEY, an
individual, and DANIEL O'BRIEN, an individual,
22

23 Plaintiffs,

24 v.

25 DAVID FERGUSON, an individual dba
CD PRESENTS, BURIED TREASURE
26 MUSIC and ANARCHY ANTHEMS; ANTHEM
MUSIC AND MEDIA FUND, LLC, a Delaware
27 Limited Liability Company dba FIGS D. MUSIC,
THE BICYCLE MUSIC COMPANY, an entity of
unknown origin; NBC UNIVERSAL, INC., a
28

CASE NO. C10-01881 JSW

STIPULATION AND [PROPOSED] ORDER
RE: FURTHER EXTENSION OF TIME TO
FILE RESPONSE TO SECOND AMENDED
COMPLAINT AND CONTINUANCE OF
CASE MANAGEMENT CONFERENCE AND
CASE MANAGEMENT CONFERENCE
STATEMENT DEADLINE

Currently Scheduled Conference:

Date: August 5, 2011

Time: 1:30 p.m.

Courtroom: 11 – Nineteenth Floor
Hon. Jeffrey S. White, Presiding

1 Delaware Corporation; and Film 44, INC., a
2 California Corporation,

(E-Filing)

3 Defendants.

4 Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure and Rule 6-1(a) of the Civil Local
5 Rules of the United States District Court, Northern District of California, Plaintiffs PENELOPE
6 HOUSTON, an individual, GREG INGRAHAM, an individual, JAMES WILSEY, an individual, and
7 DANIEL O'BRIEN, an individual (collectively, "Plaintiffs"), on the one hand, and Defendant DAVID
8 FERGUSON, an individual ("Defendant"), on the other hand, hereby agree and stipulate as follows:

9 This Stipulation, and the Proposed Order thereon, is being submitted for the purpose of: (a)
10 extending the deadline to file a responsive pleading to Plaintiffs' Second Amended Complaint (the "SAC");
11 (b) continuing the Case Management Conference ("CMC") in this case, which is currently scheduled for
12 August 5, 2011, for at least thirty (30) days, to a date convenient to the Court; and (c) continuing the CMC
13 Statement deadline that is tied to the date of the CMC. As set forth in the Recitals below, the parties
14 believe that good cause exists for the Order requested in light of the status of the parties' settlement
15 negotiations.

16 RECITALS

17 WHEREAS, Plaintiffs filed a Second Amended Complaint on January 21, 2011; and

18 WHEREAS, Plaintiff and Defendant Ferguson previously stipulated, and this Court ordered on July
19 1, 2011, that Defendant Ferguson's response to the Second Amended Complaint is due by July 22, 2011;
20 and

21 WHEREAS, this is the tenth request for extension of the date by which Defendant shall file a
22 responsive pleading; and

23 WHEREAS, Plaintiffs and Defendant Ferguson previously stipulated, and this Court ordered on
24 June 10, 2011, that the CMC is to be held on August 5, 2011, and that the CMC Statement is due on July 29,
25 2011; and

26 WHEREAS, the parties have agreed to the settlement of their dispute, have finalized a settlement
27 agreement, and are actively engaged in obtaining execution thereof; and

28 //

1 WHEREAS, Rule 6-1(a) of the Civil Local Rules of the United States District Court, Northern
2 District of California, permits the parties to extend the time within which to answer or otherwise respond to
3 a complaint by stipulation in writing and without a Court order, provided the change will not alter the date
4 of any event or any deadline already fixed by Court order; and

5 WHEREAS, Plaintiffs and Defendant agree that the extension of time for Defendant to file a
6 responsive pleading to the Second Amended Complaint will not alter the date of any event or any deadline
7 already fixed by Court order; and

8 WHEREAS, Plaintiffs and Defendant agree and stipulate that the date by which Defendant shall file
9 a responsive pleading should be extended to August 22, 2011, to allow the parties time to complete the
10 execution of the settlement agreement;

11 WHEREAS, Plaintiffs and Defendant agree and stipulate that a further extension of time for
12 Defendant to file a responsive pleading to the SAC, to August 22, 2011, and a continuance of the CMC and
13 of the CMC Statement deadline, for a period of at least thirty (30) days from August 5, 2011, is appropriate
14 and would allow the parties further time to finalize settlement, and hereby jointly request that the Court
15 order such enlargement of time; and

16 WHEREAS, the parties believe that requested time modifications would have no substantial effect
17 on the schedule for this case and would encourage completion of the settlement;

18 NOW THEREFORE, Plaintiffs and Defendant, by and through their respective undersigned counsel,
19 hereby stipulate as follows:

20 1. The time for Defendant David Ferguson to file a responsive pleading to the Second
21 Amended Complaint shall be extended to and including August 22, 2011.
22 2. Subject to Court approval and the Court's calendar, the CMC shall be continued for a period
23 of at least thirty (30) days from August 5, 2011.

24 //

25 //

26 //

27 //

28 //

3. Subject to Court approval, the CMC Statement deadline shall be continued for a period of at least thirty (30) days from July 29, 2011.

SO STIPULATED.

Dated: July 20, 2011

LAW OFFICE OF ALAN KORN

By: /Alan Korn/
Alan Korn
Attorneys for Plaintiffs
PENELOPE HOUSTON, GREG INGRAHAM, JAMES
WILSEY and DANIEL O'BRIEN

IDELL & SEITEL LLP

Dated: July 20, 2011

By: /Richard J. Idell/
Richard J. Idell
Attorneys for Defendant DAVID FERGUSON

ATTESTATION OF CONCURRENCE

I, Richard J. Idell, as the ECF user and filer of this document, attest that, pursuant to General Order No. 45(X)(B), concurrence in the filing of this document has been obtained from Alan Korn, the above signatory.

Dated: July 20, 2011

By: /Richard J. Idell/
Richard J. Idell

~~PROPOSED~~ ORDER

PURSUANT TO THE ABOVE STIPULATION, IT IS HEREBY ORDERED as follows:

11

11

1 3. A supplemental joint Case Management Conference Statement shall be filed by the parties
2 on or before September 9, 2011.

3 **IT IS SO ORDERED.**

4 Dated: July 21, 2011



5 Honorable Jeffrey S. White
6 Judge of the United States District Court
7 Northern District of California

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28